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Attorneys for Plaintiff Michael Weiner
 and the Proposed Class in
Weiner v. Walmart.com USA LLC, et al.
 Case No. 09-cv-00398 BZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANDREA RESNICK, GARY BUNKER, JOHN)
 HALEY, AMY LATHAM, ERIC)
 ROSLANSKY, and KEVIN SIMPSON, on)
 behalf of themselves and all others similarly)
 situated,)

Plaintiffs,)

v.)

WALMART.COM USA LLC, WAL-MART)
 STORES, INC., and NETFLIX, INC.,)

Defendants.)

Case No. 09-cv-00002 PJH

ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES
 SHOULD BE RELATED

1 **TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:**

2 Pursuant to Local Rule 3-12, Plaintiff Michael Weiner respectfully submits this
3 administrative motion to consider whether a case filed in this District, *Weiner v. Walmart.com USA*
4 *LLC, et al.*, Case No. 09-00398 JCS (“Weiner”) (filed January 28, 2009) should be related to
5 another case filed in this District, *Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-
6 00002 PHJ (“Resnick”) (filed January 2, 2009).

7 Pursuant to Local Rule 3-12(d)(2), Plaintiff states that *Weiner* involves the same
8 Defendants as in *Resnick*. The cases involve similar factual allegations as both are proposed class
9 actions on behalf of purchasers of online DVD rentals from Netflix, Inc. Both complaints are
10 brought under sections 1 and 2 of the Sherman Antitrust Act of 1890, 15 U.S.C. §§ 1-2, and
11 sections 4 and 16 of the Clayton Antitrust Act of 1914, 15 U.S.C. §§ 15 and 29, for damages and
12 injunctive relief against Defendants Netflix, Inc., Wal-Mart Stores, Inc., and Walmart.com USA
13 LLC.

14 Pursuant to Local Rule 3-12(a)(2), it appears likely that there will be duplication of labor
15 and expense or the possibility of conflicting results if the cases are conducted before different
16 Judges.

17 Given the similarities of these actions, assignment of these cases to a single Federal District
18 Court Judge will conserve judicial resources and promote efficient determination of the actions
19 while avoiding potentially conflicting results. Accordingly, Plaintiff Michael Weiner respectfully
20 requests that the action entitled *Weiner v. Walmart.com USA LLC, et al.*, be deemed related to
21 *Andrea Resnick, et al. v. Walmart.com USA LLC, et al.*, the first filed case in this District, which is
22 presently assigned to the Honorable Phyllis J. Hamilton.

23 DATED: February 5, 2009

24 HAGENS BERMAN SOBOL SHAPIRO LLP

25
26 By /s/ Jeff D. Friedman
27 JEFF D. FRIEDMAN

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 5, 2009, I electronically filed the foregoing with the Clerk
3 of the Court using the CM/ECF system which will send notification of such filing to the e-mail
4 addresses registered, as denoted on the attached Electronic Mail Notice List, and I hereby certify
5 that I have mailed the foregoing document or paper via the United States Postal Service to the non-
6 CM/ECF participants indicated on the attached Manual Notice List.

7
8 /s/ Jeff D. Friedman
JEFF D. FRIEDMAN

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Mailing Information for a Case 3:09-cv-00002-PJH

Electronic Mail Notice List

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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Mailing Information for a Case 3:09-cv-00398-BZ

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